

CITY OF MORGAN HILL  
SPECIAL AND REGULAR CITY COUNCIL AND  
SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES - FEBRUARY 16, 2000

Mayor Pro Tempore/Agency Member Tate called the meeting to order at 6:33 p.m.

**ROLL CALL**

Present: Council/Agency Members Chang, Cook, Sellers, and Mayor Pro Tempore/Agency Member Tate  
Late: Mayor/Chairman Kennedy (arrived at 6:36 p.m.)

**DECLARATION OF POSTING OF AGENDA**

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council/Redevelopment Agency Action***

**CLOSED SESSION:**

Interim City Attorney Leichter announced the following closed session items.

**1.**

**CONFERENCE WITH LEGAL COUNSEL - POTENTIAL LITIGATION**

Legal Authority:	Government Code 54956.8 & 54956.9(c) (1 potential case)
Real Property(ies) involved:	APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Mission View and Cochrane Road; and APN 728-31-009 - 12.88 acres located on the southeast corner of Cochrane and Highway 101 (St. Louise Hospital property)
City Negotiators:	Agency Members; Interim Executive Director; Interim Agency Counsel; and F. Gale Conner, special counsel
Closed Session Topic:	Potential Litigation

**2.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:**

Significant exposure to litigation pursuant to subdivision (b)(1) of Government Code Section 54956.9: (1 case)  
Attendees: City Council, Director of Public Works, Interim City Manager, Interim City Attorney

Mayor Pro Tempore/Agency Member Tate opened the closed session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor Pro Tempore/Agency Member Tate adjourned the meeting to closed session at 6:35 p.m.

## **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:11 p.m.

## **CLOSED SESSION ANNOUNCEMENT:**

Interim City Attorney Leichter announced that no reportable action was taken on Closed Session Item No. 2 and that discussion of Closed Session Item No. 1 was continued to the end of the agenda.

## **SILENT INVOCATION**

## **PLEDGE OF ALLEGIANCE**

At the invitation of Mayor Kennedy, Karen Lengsfeld, Volunteer Coordinator, led the Pledge of Allegiance.

## **CERTIFICATE OF RECOGNITION**

Mayor Kennedy presented Marie Skinner a Certificate of Recognition for her *Volunteer Services* to the City of Morgan Hill.

## **PRESENTATION**

Mary Pat Panighetti, County Juvenile Probation Department, made a presentation on the *Juvenile Restoration Justice Program*. The program recruits residents from a community to partner with the program to deal with youth crimes. It was her belief that the Santa Clara Board of Supervisors would be funding additional monies this summer, noting that Morgan Hill was identified as a possible target area and that existing resources can be used to begin implementing the program in Morgan Hill if the city would like to have the program in the community.

Mayor Kennedy informed Ms. Panighetti that the City is interested in implementing the Juvenile Restoration Justice Program. He recommended that Ms. Panighetti contact Karen Lengsfeld, the City's Volunteer Coordinator.

Fred Casillas, United States Department of Commerce Census 2000, addressed the importance of all residents being counted in the upcoming Census 2000.

## **INTRODUCTIONS**

The introduction of Ryan Do, *Junior Engineer*, was deferred to a future meeting.

Director of Community Development Bischoff introduced newly hired Gina Fitch, *Building Division Municipal Services Assistant* and Phyllis Dieter, *Planning Division Office Assistant II*.

## **CITY COUNCIL REPORT**

Council/Agency Member Chang stated that on February 10 she attended the Valley Transportation Agency (VTA) Policy Advisory Committee. She said that it is being recommended that the Board of Directors approve projects of priority for the 2000-2001 Countywide TDA Article 3 Program, the quarter cent per gallon tax for gasoline and diesel fuel sales. She stated that Morgan Hill's Bikeway Master Plan has been approved under the Guarantee Project Request Category. She indicated that the Burnett Avenue bridge and the Coyote Creek project are a discretionary expense and that it made it to the top four projects to be funded. She was requested to remind Interim City Manager Tewes that on March 31, a VTA workshop will be held to discuss the 2020 programs. She indicated that Council members would also be invited to this meeting.

## **INTERIM CITY MANAGER'S REPORT**

Interim City Manager Tewes stated that he did not have a report to present this evening.

## **INTERIM CITY ATTORNEY'S REPORT**

Interim City Attorney Leichter stated that she did not have a report to present this evening.

## **PUBLIC COMMENT**

Keith Robertson, Las Casas de San Pedro resident, informed the City Council that state law requires apartment complexes of 16 units or more to have a full time manager on site. He noted that Las Casas de San Pedro complex has 64 units with a part time manager on site. He felt that a manager is needed on site to respond to residents. He informed the City Council that eight units are leaking and that management took away the shopping van used by individuals unable to drive to grocery stores. He expressed concern that the senior complex is being rented to families with children, noting that the complex is not conducive nor safe for children.

Interim City Attorney Leichter indicated that staff has had an opportunity to meet with the property owner, representatives from Project Sentinel and a representative from the Senior Adults Legal Assistance Group relating to senior age restrictions and Section 8 issues. Also discussed was the habitability concern, elimination of the van and the alarm issue. The issue of primary concern is the rent increase that has been applied. She said that it has been indicated that there may be a possible resolution to these issues.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Kennedy removed items 1, 3 and 4 from the Consent Calendar.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) approved Consent Calendar items 2, and 5-8 as*

*follows:*

**2. VACATION OF A PORTION OF SUNSET ROAD - Resolution No. 5349**

**Action:** 1) **Adopted** Resolution No. 5349 thereby Vacating a Portion of Public Road Right-of-way Across Lots 6, 15, 16, 27 & 28 of Tract 9050, Sunset Road, and 2) **Directed** the City Clerk to File a Certified Copy of the Resolution in the Office of the Recorder of Santa Clara County.

**5. AMENDMENT TO CITY COUNCIL POLICY 94-01: ASSIGNMENTS TO OUTSIDE AGENCIES**

**Action:** **Approved** Amendment to Policy 94-01 to More Accurately Reflect that Appointments are to be Made by the Elected Mayor, Subject to City Council Approval.

**6. LOCAL LAW ENFORCEMENT BLOCK GRANT**

**Action:** 1) **Authorized** Interim City Manager to Apply for and Accept a Local Law Enforcement Block Grant in the Amount of \$19,634; 2) **Accepted** the Spending Plan as Presented; 3) **Appropriated** \$2,182 in Unallocated Reserves as Grant Matching Funds; 4) **Authorized** the Transfer of \$21,816 in FY 99/00 from the Law Enforcement Block Grant Fund (205) to the General Fund (010); and 4) **Appropriated** \$21,816 in FY 99/00 for Specific Grant Expenditures.

**7. SPECIAL JOINT CITY COUNCIL, PLANNING COMMISSION AND GENERAL PLAN TASK FORCE MEETING MINUTES OF JANUARY 24, 2000**

**Action:** **Approved** the January 24, 2000 Minutes as amended (note that Council Member Tate was absent from this meeting).

**8. APPROVAL OF SPECIAL MEETING MINUTES OF FEBRUARY 1, 2000**

**Action:** **Approved** the February 1, 2000 Minutes as submitted.

**1. JANUARY FINANCE AND INVESTMENT REPORT**

Mayor Kennedy noted that the summary sheet of the financial Statement Analysis, appears positive and encouraging with respect to the General Fund. It is showing that revenues are 27% above the prior year. He asked if this is a good/valid number or was there something unique for this being the case?

Interim City Manager Tewes requested that Council Members identify its issues and that staff would report back on the issues.

Mayor Kennedy also noted that the revenues for the Transient Occupancy Tax increased by 51% over last year. He asked if this was also a valid number. Regarding the Sewer Operations, he noted that a statement in the report indicates that a reclassification of capital expenditure needs to be made from the operating fund. He did not believe that this was an appropriate statement as it was his belief that operating funds are to be used for operating expenses and that capital funds are to be used for capital expenses.

Interim City Manager Tewes indicated that financial data is presented in two forms. One form is in accordance with generally accepted accounting principles typically seen in financial statements. This statement requires that debt be reported in a certain way. The budget is the second way in which financial information is presented, noting that the budget is a control as well as a planning document. The term "expenditure" is used in a budget for the purpose of a financial statement. He said that the actual expenditures versus the budget are a reflection of how the transaction is recorded.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Accepted and filed** report.*

**3.        CERTIFICATION OF THE BICYCLE PARKING FACILITIES PROJECT FOR THE TRANSPORTATION FUND FOR CLEAN AIR (TFCA) PROGRAMS MANAGER 2000/2001 FUNDING CYCLE - Resolution No. 5350**

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** Resolution No. 5350 Supporting the Bicycle Parking Facilities Project as the City's 2000/2001 TFCA (40%) Project.*

**4.        ADOPT RESOLUTIONS AUTHORIZING THE FILLING OF THE MAIN AVENUE/UNION PACIFIC RAILROAD CROSSING SAFETY IMPROVEMENT AND MONTEREY ROAD/UNION PACIFIC RAILROAD UNDERCROSSING AND BIKEWAY IMPROVEMENTS APPLICATIONS FOR GRANT FUNDING - Resolution Nos. 5351 & 5352**

Mayor Kennedy said that these are both excellent projects. One will fix the railroad crossing from Main Avenue near the Flea Market and the other project will provide bicycle and pedestrian access under the railroad underpass on Monterey Road. He complimented staff for preparing and submitting the applications.

**Action:**        *On a motion by Council Member Sellers and seconded by Council Member Chang, the City Council unanimously (5-0): 1) **Adopted** Resolution No. 5351 Authorizing the Filing of An Application for Federal Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program Funding for the Main Avenue/Union Pacific Railroad Crossing Safety Improvements and Committing the Necessary Local Match for the Project and Stating the Assurance of the City of Morgan Hill to Complete the Project; and 2) **Adopted** Resolution No. 5352 Authorizing the Filing of An Application for Federal Surface Transportation Program and Congestion Mitigation and Air Quality Improvement Program Funding for the Monterey Road/Union Pacific Railroad Undercrossing and Bikeway Improvements and Committing the Necessary Local Match for the Project and Stating the Assurance of the City of Morgan Hill to Complete the Project.*

**Action:**        *By consensus, the City Council/Agency Commission agreed to consider Agenda Item 17 at this time.*

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

#### **17. SUBORDINATION AGREEMENT WITH SPECIALIZED BICYCLES**

Director of Business Assistance and Housing Services Toy presented the staff report.

Agency Member Tate inquired if there is an increased risk to the Agency due to the loan amount going up and the Agency subordinating a larger amount? Mr. Toy responded that there would be a slight increase in risk in that the security is the property. It was staff's belief that this value is adequate to secure the Agency's interest.

Chairman Kennedy opened the floor to public comment. Peter Anderson, representative to the Chamber of Commerce's Economic Development Committee, stated that the Committee has reviewed the request and found it to be consistent with the objectives of the Redevelopment Agency and with the objectives and goals of the Economic Development Committee. He requested that the Agency consider this request in a favorable fashion. No other comments were offered.

**Action:**      *On a motion by Vice-chairman Sellers and seconded by Agency Member Tate, the Agency Commission, on a 3-2 vote with Agency Members Chang and Cook voting no, **Authorized** the Executive Director to Do Everything Necessary to Subordinate the Agency's Loan to a Maximum \$4.3 Million Loan Obtained by Specialized Bicycles from Bank of America for Capital Improvements, including the Amendment of Any Related Loan Documents.*

Agency Member Chang stated that she did not support the approval of the funding assistance last year and that for the same reasons, she was not supporting the request at this time. She stated that as a majority of the Agency Commissioners are approving the request, she would not debate the issue.

Agency Member Cook said that overall, she felt that Specialized Bicycles contributes to the community. However, the terms of the loan are something that troubles her because it is a loan free from interest and free from repayment as long as the business remains in the city. She felt that loans should be structured differently as this appears to be a grant.

Chairman Kennedy stated that he was pleased that the Agency was able to take this action because it retains a world renown bicycle company in Morgan Hill, it would retain 120 jobs and that it would provide sales tax revenue to the city. These meet the goals of the City's Economic Development criteria. He said that Redevelopment Agency funds can be used to help facilitate good projects that benefit the community economically.

Vice-chairman Sellers concurred with the comments expressed by Chairman Kennedy. He was pleased to see that this was also a private investment. He felt that this action would send a positive message to the business community that Morgan Hill is a good place to do business.

## ***City Council Action***

### **OTHER BUSINESS:**

#### **9. FIRE SERVICES ISSUES IN THE JACKSON OAKS/HOLIDAY LAKE ESTATES AREA**

Interim City Manager Tewes presented the staff report. He informed the City Council that Fire Chief Sporleder would address the City Council regarding his report. He indicated that the City Council has appropriated funds for the completion of an update to the City's Fire and Life Safety Master Plan. This process is beginning and that any comments that the Council may have regarding issues to be addressed in the update would be appropriate to be indicated this evening.

Chief Sporleder addressed the items that were included in the report on the events dealing with the fire that occurred on January 13, 2000 at 15710 Oakridge Court. He stated that the response from the Dunne/Hill fire station up the hill takes time. He noted that the fire took place at the end of the Jackson Oaks subdivision, the farthest point from the fire station. He said that the average response time is 6.5 minutes to this area of town. He felt that there were complications with the alarm that caused some delays but that he was not sure if the delay had affected the outcome.

Mayor Kennedy noted that the report states that if Fire Engineer No. 8 had gone directly to the site, it would have taken approximately 4.55 minutes to get to the site. He also noted that the fire personnel missed the street to access the fire site.

Chief Sporleder said that the same amount of time would have been taken to access the site regardless of which code was used because the engine would still need to climb the grade. He indicated that fire personnel were not familiar with the area. He said that in order for the fire personnel to be able to perform their duties, personnel need to be moved from station to station. He said that there was nothing that he would be able to do to keep the same personnel in cities. The fire department needs to have the flexibility of moving fire personnel around. He said that improving the road mapping system may improve fire response.

Council Member Cook stated that in reading the report, Engine No. 8 left the fire house, it headed toward Helene Drive and not the location of the fire. She did not believe that fire personnel responded to the fire when the call was first received as no one had identified the situation as a fire. Identification of the fire site would have resulted in taking four minutes off of the response time.

Council Member Chang noted that a resident on Helene Lane reported the fire. Therefore, she did not believe that the situation had anything to do with fire personnel being familiar with the territory.

Chief Sporleder clarified that fire personnel were not lost. Fire personnel passed Jackson Oaks and had to turn around. He informed the City Council that it is typical to have fire personnel familiar with locations to lead others.

Mayor Pro Tempore Tate said that one of his observations in reading the report and in living in the

Holiday Lake area is that a fire in one location up the hill will frequently be identified at a location that is remote from the fire location and would probably be reported at a location remote to the actual fire site. He felt that this was an area that some expertise could be brought to bear in terms of having a guidance system for the hill.

Chief Sporleder said that one item that was addressed by fire personnel when they met with the neighborhood was the installation of an alarm system with exterior bells connected to existing alarm systems. He felt that the fire crew did an excellent job from the fire fighting aspect of the situation. He felt that there were other measures that can be taken with the assistance of fire personnel in working with the residents. He addressed the public educational programs available to hillside communities. He said that when the County Fire Department began operations in the city four years ago, he visited the Holiday Lakes Estates and the Jackson Oaks area. What he saw then and what he sees today is a tremendous effort by the residents taking steps to improve fire hazard conditions. He felt that there is still a lot of work to be done but felt that there is a genuine improvement being made in the hillside area. He recommended that the two communities join together so that they know who their neighbors are as they share a common problem.

Mayor Pro Tempore Tate said that there are three separate homeowners associations. He said that the Jackson Oaks homeowners association made an immediate outreach to the other associations as a result of the fire and invited them to a session presented by the fire department. No formal plan has been implemented by the homeowners association. Informally, he felt that the three associations would come together based upon this incident.

Mayor Kennedy expressed concern that the fire was left undetected for a long period of time. He asked what can be done to provide earlier detection of a similar fire? Chief Sporleder said that he did not know what could be done as fire detectors are not installed under a home. He stated that this was a very unusual situation. He said that a residential fire sprinkler system may have slowed down the fire once it had burnt through the floor. Regarding the proposal for another fire station at the top of the hill, he said that the activity in this area does not warrant the addition of a full time fire station. If the resource of another fire station was available, he would recommend that it be built in the valley floor where it is needed as this is the area where request for assistance come from. He said that a fire master plan may be able to address this issue.

Council Member Cook felt that there were several areas in town that fire services could be improved upon such as the southern end of town. She stated that she looks forward toward seeing the results of a comprehensive city wide report. She said that she was encouraged to hear about the educational outreach being provided by the fire department. She was pleased that the community is stepping up and being responsible for their property. She recommended that the City review the mutual aid agreement at the southern end of town

Mayor Kennedy opened floor to public comment. No comments were offered.

Mayor Pro Tempore Tate said that he has received feedback from residents who attended the meeting and indicated that the residents were impressed with Chief Sporleder and his staff's honesty in trying to find the right answers. He noted that the implementation of paramedic service is included in the



budget and that it is to be implemented in the second half of the fiscal year.

Interim City Manager Tewes informed the City Council that it was staff's intention to return with the issues of the implementation of paramedic services for Council discussion at its next meeting.

Mayor Kennedy said that in light of the closure of emergency services at St. Louise Hospital, paramedic services should be raised to a higher level of priority. He recommended that this be scheduled for Council review at its next meeting.

Mayor Pro Tempore Tate requested an overview of the process that was followed when the fire master plan was completed 12 years ago to determine whether the same process is appropriate. It needs to be determined if there will be citizen involvement and whether a committee will be established to proceed with the process. He felt that discussion is needed on how the process is to be implemented and how much of the old plan should be used (overview of how the process will work).

**Action:**        **No action taken.**

#### **10.    CO-SPONSORSHIP OF FOURTH OF JULY EVENTS**

Chief of Police Schwab presented the staff report.

Council Member Cook said that last year the city contributed a monetary amount for the Fourth of July joint venture. She asked if a monetary amount has been identified for this year's event? Chief Schwab responded that the city's contribution was in kind. The city agreed to subsidize public safety and city services up to \$8,000. He said that the Sheriff's Department will be providing public safety services to the county site that will hold the fire works display. He said that fire services would still fall under the city's contract with the Santa Clara County Fire Department. He said that Independence Day, Inc. (IDI) would need to obtain a county permit for the fireworks show with the Santa Clara Fire Department. Therefore, there is no change in fire jurisdiction and that there is only a change in police jurisdiction. If the Sheriff's Department is unable to provide deputies for the event, the County will ask the city's police department to assist with services. He said that staff is still considering in kind financial assistance. Having the fire works outside the city limits may result in some cost issues. However, he did not believe that they would be proportionately higher than if the event occurred in the city.

Mayor Pro Tempore Tate said that last year, the city partnered with IDI and that the city felt that it did more than what actually occurred with the insurance. He said that it is proposed to re engineer the insurance for this year so that the City will be able to pick up more of the insurance. As this is a millennium year, he would like the city to make a significant contribution to the entire effort.

Council Member Sellers said that it appears that the location issue has been resolved. He expressed concern that Morgan Hill residents will not be able to walk to the fire work's site. He requested that staff elaborate on some of the problems that occurred over the past few years.

Chief Schwab said that the main issue of concern is the fire works fall out, resulting in debris and shrapnel falling into the audience area.

Council Member Sellers said that if the fireworks display is being moved south, he wanted to make sure that there was enough police/fire personnel and services on hand and that the public is made aware that the fireworks location has changed. Chief Schwab said that other than the fireworks display, the remainder of the Fourth of July activities will remain the same.

Mayor Kennedy opened the floor to public comment. He asked what provisions are being made to accommodate parking at the pumpkin patch fire work's site located at the corner of California and Monterey Road?

Alex Kennett, IDI President, said that six acres of parking will be provided as it would be imperative that Monterey Road is kept clear during the firing of the fireworks. He felt that a larger shell can be used to provide visibility further away from the site. When IDI looked for a location for the fireworks display, it looked for a site that it can have for several years. Regarding alternative sites in Morgan Hill, he said that firework fall out would occur over the crowd if the event was held at Community Park and that the soccer field on Condit Road would be sold and converted to a different use.

Mayor Kennedy expressed concern that the event is being held in San Martin and not Morgan Hill.

Bruce Tichinin stated that a street dance chairperson is needed and requested that anyone interested in serving as the chairperson contact IDI members. He introduced the other members of IDI who were present this evening: Geno Acevedo, chairman of the family food festival; Carol Holzgrafe, public relations director; and Peter Burcat, new legal counsel. He said that IDI members regret having to change the site for the fireworks display. For all the drawbacks that the site has, it was the best choice available.

Mayor Pro Tempore Tate said that this is a millennium year and that the Fourth of July activities is the premiere family event held in Morgan Hill. He recommended that the city provide financial and insurance coverage. He felt that the partnership should go beyond financial support and recommended City participation.

**Action:**        *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Directed** Staff to Negotiate an Agreement with Independence Day Inc. regarding City Co-sponsorship of the Fourth of July Events.*

Interim City Attorney Leichter said that the City Council may wish to give direction to staff as to the monetary level it would support and to specify whether this would be in kind or in addition to the in kind services. She said that there may be some monetary outlay for the Sheriff's office, Highway Patrol, county permits, and indemnification by the County for any liability.

Chief of Police Schwab said that IDI would have to contract with the sheriff's department for public safety services. The city may wish to make a contribution to IDI that would cover these costs as well

as insurance costs. He said that if the City Council was directing staff to negotiate an agreement similar to last year, the city would have to provide some cash in lieu of in kind services.

Mayor Kennedy recommended that staff meet with IDI and return to the City Council with a recommended number or series of options for its consideration.

#### **11. OVERSIZE VEHICLE PARKING ORDINANCE**

Chief of Police Schwab presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

Interim City Attorney Leichter said that ordinance seems to be working well, striking a balance between recreational vehicles and residents.

**Action:**        **No action taken**

#### **12. SUPPORT OF PROPOSITION 12, THE STATEWIDE BOND FOR SAFE NEIGHBORHOOD PARKS, CLEAN WATER, CLEAN AIR, AND COASTAL PROTECTION BOND ACT OF 2000 - Resolution No. 5348**

Recreation Manager Spier presented the staff report. Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Supported** the Passage of Proposition 12 at the March 7, 2000 Statewide Ballot and **Approved** Resolution No. 5348.*

#### **13. COMPLETION OF GENERAL PLAN UPDATE**

Director of Community Development Bischoff presented the staff report. He addressed the benefits and the additional funding needed to complete a Master EIR.

Council Member Chang concurred with staff's recommendation to extend the time period to forward a draft general plan to the City Council. She said that some General Plan Task Force Members are tired after a two-year general plan review process. She said that the greenbelt and industrial issues are important and need detail discussion.

Council Member Cook said that the General Plan Task Force did not discuss the question of a Program EIR or a Master EIR. She said that she was not in the group that decided that the city would conduct a Program EIR. She noted that a great deal of specificity is needed when you discuss the various projects as part of a Master EIR. She asked what projects are known to be in the General Plan that the city could provide the level of detail that would be useful to have that level of detail?

Mr. Bischoff responded that the section of the General Plan dealing with the Master EIR states that the city will need to identify the level of specificity to the extent possible. If the level of specificity is

not known, the city can estimate the level of impact. To the extent that the projects are consistent within the parameters of the level of impacts, the city can use the Master EIR.

Council Member Cook felt that industrial areas should be looked at in detail, especially at the city's southern boundary. As there are no proposals for industrial development before the City Council, she did not want the city approving a mitigated Negative declaration because it would result in the loss of an alternative discussion.

Mr. Bischoff said that the parameters would need to be spelled out within the Master EIR with respect to a specific type of use. The specific use can be taken and compared with a Master EIR. If the project is within the parameters of the Master EIR, development can proceed. In areas where there will be new systems of infrastructures, it would require a subsequent environmental evaluation. He said that the Task Force is suggesting that there be a general greenbelt buffer south of the Tennant Avenue area but that the area not be well defined. The charge of the Task Force following the adoption of the General Plan would be to look specifically at this area and to try to define where the greenbelt should be.

Mayor Pro Tempore Tate asked at what point in time will the City Council know the recommendation for the greenbelt will be? Mr. Bischoff said that the Task Force has not had the opportunity to discuss the open space policies. Discussion of a greenbelt will occur when the Task Force commences its discussion of the open space policies. The greenbelt would return to the City Council in policy form at the time that the General Plan is reviewed by the City Council. The City Council can concur with the policies, indicate that the scope is insufficient or that the time frame is too far out. The Council can make whatever changes it deems appropriate.

Council Member Cook indicated that the Council could include monies in this year's budget to conduct the greenbelt study next fiscal year.

Mayor Kennedy opened the floor to public comment. Gordon Jacoby informed the City Council that he is representing a large property owner on the east side of the freeway, south of Tennant Avenue who has had a general plan designation for commercial reserve for the past ten years. He concurred with the idea that subsequent to the General Plan that a study is conducted on the site that combines both open space and industrial development. He said that he just concluded working on a specific plan in the bay area where a community tied a specific plan to creating value with commercial to create funds to buy a permanent greenbelt area. He said that fees will be charged for urbanized areas sufficient to buy development rights in a defined greenbelt area. He recommended that the City investigate the feasibility of a specific plan that can become the vehicle to link industrial areas with greenbelt areas through the purchase of easements with development fees. No other comments were offered.

Mayor Kennedy requested that staff look into Mr. Jacoby's suggestion.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Cook, the City Council unanimously (5-0): 1) **Extended** the Time Period to Forward the Draft General Plan from February 2000 to May 2000; 2) **Authorized** the Interim*

*City Manager to Enter into a Revised Agreement with Crawford Multari Clark & Mohr to Modify the Contract for Environmental Services for the General Plan; and 3) **Appropriated** \$17,000 from the General Plan Update Fund to Cover the Additional Cost of the Environmental Review to Convert the EIR for the General Plan from a Program EIR to a Master EIR.*

Council Member Sellers said that last year, Gilroy's General Plan update became a little more politicized than it should have because it ended up being delayed into the fall. He recommended that the general plan update timeline be adhered to.

#### **14. COUNCIL COMMITTEES AND OUTSIDE AGENCY ASSIGNMENTS**

Council Member Cook said that she requested that this item be agendaized because during the City Council's retreat and the last city council meeting, there was some discussion about council members' involvement in their committees and boards. At that time, it was stated that the council members could not review any of the appointments or to discuss that aspect. She did not believe that action was warranted but that if other council members feel that there is an action that they would like to take, this would be the opportunity to do so.

Mayor Kennedy requested that the City Council give some consideration to the formation of an additional subcommittee, appointing a city council liaison representative to the Historical Society as suggested by Roger Knopf. He requested that this be scheduled for a future agenda.

**Action:**        **No action taken.**

#### **15. DISCUSSION OF DRAFT SCRWA POLICY REGARDING SEWER CONNECTIONS IN OTHER CITIES**

Interim City Manager Tewes presented the staff report. He indicated that at the last city council meeting the City Council received a draft policy which was to be considered within a few days by the SCRWA Board. The policy related to the circumstances under which the Board could approve connections to sewer systems outside the city limits. The Council directed that staff request that SCRWA delay action on the policy in order to allow the City Council the opportunity to review the policy. The Council has the opportunity to discuss the SCRWA draft policy and determine whether it wishes to make any comments directly to SCRWA about the policy. He offered two alternatives for City Council consideration: 1) Develop an alternative policy to state: "Whenever a city allows a connection in an adjacent city, the city should address SCRWA's legitimate interest (e.g., SCRWA is indemnified against any potential litigation, the capacity allocated to that city not be exceeded by such a connection; and that such a connection is subject to local limits). Staff felt that this would be the appropriate level for SCRWA review if there is to be any. 2) Recommend that review of a policy be deferred until the EIR for the Sobrato school site and an application is presented to the city. This would prevent a policy being adopted in a vacuum. The alternative suggestion would request that the SCRWA Board delay action on any policy and this issue for six months or until such time that the EIR is prepared and the issues develop further.

Interim City Attorney Leichter said that if a time line needs to be identified, that it be stated that the issue can be agendized for discussion 30 days after the certification of the EIR for the Sobrato school site. She felt that December 1 would be an operative time frame.

Council Member Cook said that when she asked that the SCRWA Board place this issue on the agenda, she was concerned about indemnification. She understands that this issue will need to be addressed at some point in time. She looks forward to a joint meeting with the City of Gilroy to discuss the JPA, its policies and how it is doing. She was encouraged that dialogue has begun. Therefore, she could support the recommendation to defer discussion of the policy until the certification of the EIR.

Mayor Kennedy stated that he placed a call to Gilroy Mayor Springer suggesting that a joint meeting between the two city councils be held to discuss this issue. He requested that Interim City Manager follow up with this request with the Gilroy City Manager. He felt that the City's two SCRWA Board Members understand that it is being recommended that the SCRWA Board take no action until the two city councils have had an opportunity to meet and discuss the JPA, as a whole, and until 60 days after the certification of the EIR.

Council Member Cook asked if there would be any benefit for SCRWA to discuss the issue to get some indication where this issue is going? She did not believe that the issue would be limited only to the school site. She felt that the city would be receiving requests as pressures for growth in the county occurs.

Acting City Attorney Leichter felt that it may be prudent to have discussion take place in a work study session with the Gilroy City Council as opposed to an official SCRWA Board meeting which may be construed as action.

Council Member Chang said that the City Council has appreciated the friendship that the Gilroy City Council has given to the City of Morgan Hill. She did not see a need to stir up the issue as it may not be an issue.

Council Member Cook said that within the next five years, there will be planning for a plant expansion. She and Mayor Kennedy have expressed concern with the independence of the administration and that she sees this as a positive step. She noted that south county is growing and that the City needs to deal with the issue.

Council Member Chang felt that it was premature to discuss the issue. She felt that the issue should be discussed 60 days following certification of the EIR.

Mayor Kennedy felt that this issue can be addressed in a broader context in a joint city council workshop. He recommended that an agenda for a joint work study session be put together at a later date.

**Action:**        *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **directed** staff to coordinate a joint City Council*

*workshop with the City of Gilroy. **No action** is to be taken on this issue until 60 days following the certification of the Sobrato School Site EIR.*

#### **16. RECRUITMENT FOR POSITION OF CITY ATTORNEY**

Interim City Attorney Leichter stepped down from discussion of this item due to a potential conflict of interest. Should the City Council have a need for factual information, she would be happy to provide said information subject to its disclosure.

Interim City Manager Tewes presented the staff report.

Council Member Cook said that she was in the minority vote when she stated that she did not believe that it was important to have an in house city attorney. She felt that there were advantageous to having a contract with a firm because of the depth of knowledge that a firm brings. She stated that she would prefer to have a contract attorney firm and that it did not necessarily have to be the one that the city is currently under contract with. She did not feel that there was a particular need to have an in house city attorney as the City has been without an in house attorney for approximately one year. She said that having the need of immediate contact with an attorney was not as important to her as the quality of information that is given to the City. She looked at the information that the former Finance Director put together that lists 43 cities in the state and whether they were supported by an in house legal counsel or contract firm, including general fund budgets. She noted that cities with the similar population and budgets to that of Morgan Hill have a contract attorney. Therefore, she did not believe that it was unusual for a city of Morgan Hill's size or budget to have a contract city attorney.

Mayor Kennedy said that he was very comfortable with the work and systems that former City Attorney Baum put into place. He felt that there were good arguments both ways. He said that he has had a difficult time contacting the city's contract legal firm than when the city had its own in house city attorney. He felt that an in house city attorney would have many resources available at their finger tips. If the City was to contract with a firm, there would be a tendency for the firm to handle as much of the work that it can, even if it stretches their capabilities. He felt that an in house city attorney would be more willing and likely to go to an outside firm for special expertise or for additional resources. For these reasons, he would support having an in house city attorney.

Council Member Cook said that when former City Attorney Baum came to the city, he came at a critical time and that there was an unusually heavy load of law suits. She felt that the City's needs are different today than they were when former City Attorney Baum came on board. She said that as a small city, it is limited in the salary that it can offer to a city attorney. She expressed concern that the City will receive a pool of unseasoned city attorney candidates and that the city would be a training ground in the matter of law.

Council Member Chang stated that she would prefer to have an in house city attorney because she sees the Council's/Agency's workload increasing as the City proceeds with its visioning projects. She said that the current interim attorney and law firm are doing a wonderful job. If the firm is willing to be the city's in house attorney, she would support having Interim City Attorney Leichter hired.

However, she would like the focus of an in house attorney being that of the city's. She felt that the loyalty of a contract attorney would be to the firm.

Council Member Sellers concurred that access to a city attorney is important. He said that the key component to an in house city attorney is the level of expertise in candidates that would apply for the position. If the City Council realizes that it does not have the candidates of the level of expertise that it desires, the City Council could reevaluate whether it wishes to continue with an in house city attorney or contract services. He stated that he would support proceeding with the recommendation to seek proposals for an in house city attorney. He recommended that Mayor Kennedy serve on the subcommittee with one other council member whose term is not up in November in order to maintain continuity.

Mayor Kennedy indicated that he would be taking on an additional assignment next week and that his time would be limited. He asked Council Member Cook if she was willing to serve on the subcommittee along with one of the new council members.

Council Member Chang indicated an interest in serving on the subcommittee.

Council Cook noted that she and Mayor Kennedy were already serving on the City Manager's task force and that she would recommend either Council Members Chang, Sellers and/or Tate to serve on the subcommittee.

**Action:**        *Council Member Cook **nominated** Council Members Chang and Sellers to conduct the search for an executive search firm.*

Mayor Kennedy opened the floor to public comment.

Peter Burcat, local attorney, stated that he has had prior experience with a city attorney's office in Wellington, Delaware. He said that it will be difficult to find a qualified candidate with the salary being proposed. He did not know if it would help to have a member of the general public or an attorney assisting the subcommittee with interviewing or with providing some direction as the process is complicated. He has worked with executive search firms whose prime objective is to place a candidate, whether qualified or not, in order to retain fees. He agreed that an in house attorney is wonderful as they are responsive. He also agreed that an outside counsel's primary loyalty would be to their firm.

Council Member Tate felt that either choice can work. It comes down to a personal choice of what a council member is comfortable with. He said that he would be more comfortable with an in house city attorney arrangement. If it is found that an in house attorney is not the best way to go, the Council should be flexible enough to change course. He recommended that the City Council pursue an in house attorney.

**Action:**        *Mayor Kennedy **appointed** Council Members Chang and Sellers to serve on the subcommittee of the City Council to review the proposals and recommend a contract and recruitment process for consideration by the full council.*



**Action:**        *On a motion by Council Member Cook and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **concurred** with Mayor Kennedy's appointment.*

**Action:**        *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **directed** staff to seek proposals from qualified executive search firms to conduct a recruitment to fill the position of city attorney.*

## ***City Council & Redevelopment Agency Action***

### **CONSENT CALENDAR**

**Action:**        *On a motion by Mayor Pro Tempore/Agency Member Tate and seconded by Council/Agency Member Chang, the City Council/Agency Commission unanimously (5-0) approved Consent Items 18 and 19 as follows:*

**18.     JOINT SPECIAL/REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JANUARY 26, 2000**

**Action:** ***Approved** the January 26, 2000 minutes as written.*

**19.     JOINT SPECIAL/REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF FEBRUARY 2, 2000**

**Action:** ***Approved** the February 2, 2000 with two amendments.*

### **OTHER BUSINESS:**

**20.     COMMUNITY CENTER PRELIMINARY DESIGN**

Recreation Manager Spier presented the staff report. She indicated that the Parks and Recreation Commission endorses full build out of the community center, including the auditorium. Their priority would be the 6,100 square foot banquet hall/meeting room and full build out of Phase I as shown in the architect's plans. If funding is an issue, the Parks and Recreation would support construction of the auditorium in the second phase of construction.

Council/Agency Member Cook expressed concern that the City does not have control of the church property. She felt that this property is crucial because the city may not be able to move forward with the plan before it. She said that she would not be able to make a decision until the church property issue is resolved.

Director of Business Assistance and Housing Services Toy said that staff is continuing its discussion with the church to acquire the property. He felt that an agreement may be reached in three weeks.

Interim City Manager Tewes indicated that there is some element of risk in proceeding with the planning process and the design for the site that is yet to be acquired. However, it was his belief that the risk is minimal.

Mayor Pro Tempore/Agency Member Tate said that he spoke with the chair of the Parks and Recreation Commission. It was his impression that the chair was not aware of City Council discussion as to whether or not the auditorium had sufficient parking. Mayor Pro Tempore/Agency Member Tate felt that parking is an important issue as is the status of the church property.

Council/Agency Member Cook asked if deferring construction of one building changes the design and the site lot layout? Director of Community Development Bischoff said that the direction last received from the City Council was to proceed with Phase I. The Council could determine if there was more than enough building on site with phase I and whether adding the theater would crowd the site. The Council could determine if there is sufficient parking or whether parking would be a problem with the addition of a theater.

Mayor/Chairperson Kennedy asked if there was a way to include the arts and studio rooms without the auditorium? Mr. Bischoff responded that these uses could be accommodated on an interim basis within one of the meeting rooms.

Council/Agency Member Tate noted that there is a possibility of using the church building if an acquisition agreement can be worked out with church representatives.

Council/Agency Member Sellers stated his support of including the auditorium and the Parks and Recreation Commission's recommendation.

Mr. Bischoff said that he was not sure whether the City Council needs to take action this evening as the architects were given direction by the City Council to look at two alternatives for Phase I. If the Council supports full build out, this should so be indicated. If the Council wants to have discussion about the advisability of the theater or how the theater can be reconfigured, that can be done as part of the second design development phase.

Council/Agency Member Cook said that the Council/Agency have not discussed prioritizing the visioning projects. She recommended that priorities be discussed in order to determine the amount of money that will be needed and what will be spent. She felt that completion of Butterfield Boulevard was important.

Council/Agency Member Tate said that he is hearing from the Parks and Recreation Commission that the city does not proceed half way with the Community Center. He supported the inclusion of a water element. He agreed with the full phase I build out. He recommended further discussion take place regarding the auditorium and the Hale Lumber site in terms of expansion.

Council/Agency Member Chang said that she would like to see the ground breaking of the Community Center take place by November. She stated her support of moving forward with a full phase I build out. She felt that it was time that the City Council/Agency take action and commence the project. She felt that the city needs an auditorium but that she does not know if it is appropriate for this site. She indicated that she did not want to see Phase II deter the operation of Phase I.

**Action:**        *It was the consensus of the majority of the Commission to support full build out of*

*Phase I of the Community Center project.*

**FUTURE AGENDA ITEMS**

- Acquisition of additional parking for Community Center (closed session) (Kennedy)
- Discussion regarding a transit village concept that will incorporate most of the downtown from Butterfield to Del Monte and Main to Dunne Avenues (Kennedy)
- Council rules and procedures/operations relating to motions (Tate)
- Update and discussion of all parks and recreation facilities, including the Malaguerra site (Chang)

Interim City Manager Tewes clarified that the Fire Master Plan Report would return to the City Council on March 1.

**ADJOURN TO CLOSED SESSION**

Mayor Kennedy adjourned the meeting to closed session at 10:58 p.m.

**RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 11:37 p.m.

**CLOSED SESSION ANNOUNCEMENT**

Interim City Attorney/Agency Counsel Leichter stated that no reportable action was taken on closed session item 1.

**ADJOURNMENT:** There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:38 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, City Clerk**